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Biden Secures Reforms from National Mortgage Registry
Settlement terms increase transparency and accuracy of mortgage records

Wilmington, DE – Delaware Attorney General Beau Biden announced today that the national shadow mortgage registry known as MERS, which was at the center of the housing crisis, has agreed to implement important reforms – including regular reports on the accuracy of its records – as part of a settlement of a lawsuit Biden’s office filed against it last year. Biden filed the suit after hearing from homeowners throughout Delaware who were unable to have meaningful conversations about saving their home and who were unable to find out who owned their mortgage.

“MERS’ inaccurate and unreliable records raised serious questions about who owns what in America. The steps MERS will now take will help answer those questions,” Biden said.

Delaware is the first state to secure such concessions from MERSCORP Holdings, Inc. and its subsidiary Mortgage Electronic Registration Systems, Inc. Specifically, the terms Biden’s office secured help Delaware homeowners by:

- Creating an easy way for homeowners to find out who owns their mortgage. MERS will maintain a database – accessible online and via a toll-free telephone number -- that allows homeowners with mortgages held by MERS members to clearly see who owns the mortgage and who services the loan.
- Reducing the chances of fraudulent foreclosures. MERS members now must record assignments of mortgages with the county Recorder of Deeds Office before a foreclosure can proceed. In its investigation of MERS, Biden’s office found that MERS’ own records indicated numerous transfers in and out of MERS that were not reflected in the county records.
- Increasing the transparency of the foreclosure process. MERS has agreed to not foreclose in its name for the next five years. MERS’ prior practice of allowing its members to use MERS’ name, instead of their own, to foreclose on Delaware homeowners was confusing and misleading. Biden’s office is currently drafting possible legislation that will make this reform permanent.
- Improving the accuracy of MERS’ records. MERS will audit its records for accuracy, reporting the results to Biden’s office, and will require its members to fix the errors revealed by the audit.

- Increasing oversight and training. MERS is also required to annually examine documents signed by employees of its 25 largest members to check the identity and authority of the person who signed the documents. These signing officers will also be required to undergo training.

“Every homeowner should be able to find out who owns their mortgage, not just the company hired to collect payments,” Biden said. “The MERS System functioned to obscure this important information.”

MERS, which is incorporated in Delaware and based in Northern Virginia, was formed in 1995 to facilitate the growing mortgage securitization industry. Large banks, such as Bank of America and Wells Fargo, the government-sponsored entities Fannie Mae and Freddie Mac, and other participants in the mortgage-lending industry, created MERS to speed up and reduce the cost of the securitization process by bypassing county Recorders of Deeds offices throughout America. With little to no oversight of MERS’ practices, MERS did not meaningfully audit its records and failed to enforce its own rules governing members’ conduct. MERS was thus a key player contributing to the lack of transparency in the foreclosure tidal wave that has affected tens of thousands of Delawareans, not to mention their neighbors who suffer when their property values decline as nearby houses are sold in foreclosure.

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